

**California Victim Compensation and Government Claims Board**  
**Open Meeting Minutes**  
**May 19, 2011, Board Meeting**

The California Victim Compensation and Government Claims Board (Board) convened its meeting in open session at the call of Anna M. Caballero, Secretary, State and Consumer Services Agency, at 400 R Street, Sacramento, California, on Thursday, May 19, 2011, at 10:03 a.m. Also present were Board members Richard Chivaro, Chief Counsel, acting for and in the absence of John Chiang, Controller, and Michael Ramos, San Bernardino County District Attorney.

Board staff present included Executive Officer Julie Nauman and Chief Counsel Wayne Strumpfer. Tisha Heard, Board Liaison, recorded the meeting.

The Board meeting commenced with the Pledge of Allegiance.

**Item 1. Approval of Minutes of the April 28, 2011, Board Meeting**

Chairperson Caballero and Board member Ramos voted to approve the minutes of the April 28, 2011, Board meeting. Board member Chivaro abstained from the vote.

**Item 2. Public Comment**

The meeting was opened to public comment. No public comment was provided.

**Item 3. Executive Officer's Statement**

**Executive Officer Welcomes New Board Member**

Executive Officer Nauman welcomed Board member Rick Chivaro. Ms. Nauman stated that in addition to serving as Board member, Mr. Chivaro is Chief Counsel at the State Controller's Office. She further stated that Mr. Chivaro is familiar with the VCGCB as he served on the Board previously.

**Senate Confirmation of Secretary Caballero**

Executive Officer Nauman congratulated Secretary Caballero on her 5-0 vote by the Senate Rules Committee at her Senate confirmation hearing on May 18.

**VCGCB Budget**

Executive Officer Nauman reported that Governor Brown released the May Revise and there were no proposed changes to the VCGCB's budget. Ms. Nauman stated that the VCGCB would continue to watch the revenue figures closely, which continue to decline, and continue its efforts to increase restitution moneys into the Restitution Fund.

**Item 4. Contract Report**

Executive Officer Nauman requested that the Board modify its April 28, 2011, motion approving 25 Criminal Restitution Compact (CRC) contracts for a term of three years. Ms. Nauman stated that after careful consideration and due to the instability of the Restitution Fund, it is recommended that the contracts be executed for a term of one year only.

The 25 CRC one-year contracts total \$2,944,916.01 and reflect a 5 percent reduction, pursuant to the Governor's budget. The CRC's work with the Board to ensure that restitution fines and orders are properly administered in accordance with applicable statutes.

The Board voted to approve the 25 CRC contracts for a term of one year.

## **Item 5. Legislative Update**

Jon Myers, Deputy Executive Officer, Legislation and Public Affairs Division, reported the following:

- SB 207 (Kehoe), the Board's first Government Claims Bill of 2011, appropriates \$557,729.29 to pay claims approved by the Board from June 2010 through November 2010. The bill passed in the Senate Appropriations Committee on May 9 and will go to the second house.
- SB 139 (Fuentes), the Board's second Government Claims Bill of 2011, will cover claims approved by the Board from December 2010 through May 2011. The bill is scheduled for hearing in the Assembly Appropriations Committee on May 27.
- AB 898 (Alejo), the bill regarding restitution fines, was amended. The bill now only doubles the minimum amounts for restitution fines imposed on convicted defendants. The minimum for felony convictions increases from \$200 to \$400 and the minimum for misdemeanors increases from \$100 to 200. The bill passed in the Assembly Public Safety Committee and will be heard in assembly appropriations.

## **Item 6. Request for Approval to Submit the California State Employees Charitable Campaign Rulemaking Record to the Office of Administrative Law (Title 2, § 633.9)**

On December 16, 2010, the Board authorized the Executive Officer to begin the formal rulemaking process for proposed changes to the California State Employees Charitable Campaign (CSECC) regulations. The Board published the proposed regulations for the initial public comment period from January 7 – February 21, 2011. Comments were received during the comment period, which were addressed with revisions to the proposed regulations. The Board then conducted a follow up 15-day public comment period to allow comments to be submitted on the revised regulations. Comments were received and Board staff addressed those comments.

Staff requested that the Board adopt the proposed CSECC regulations and authorize the Executive Officer to file the regulations with the Office of Administrative Law for review and approval.

Steve Heath, President and CEO, United Way California Capital Region, appeared and addressed the Board. Mr. Heath complimented staff for their work in preparing the regulations and responding to comments. Mr. Heath commented on the following provisions to section 633.9:

### **Factors the Board May Consider in Naming a PCFD in a Geographic Area (subd. (c))**

Change the word "may" to "will" or "shall" in proposed subdivision (c) to read: "In deciding whether a CFD will be selected as the PCFD to conduct the CSECC campaign in a given geographic area, the Board will consider, but is not limited to, the following factors:" Mr. Heath stated the word "may" implies to the PCFD's that the Board may also consider other factors that are not enumerated which, in his opinion, creates ambiguity for the application and selection processes. He further stated that if the Board intends to consider factors other than those listed, those factors should be enumerated so that there is transparency for the decision-making process.

### **Nominal Ceiling on Administrative Fees (subd. (c)(5) and (c)(7))**

Mr. Heath stated that the proposed nominal ceiling on administrative fees of 14% exclusive of the State Controller's Office fees is too low to enable PCFD's to appropriately implement CSECC and assure that reasonable campaign costs are covered. He stated that the problem is even more acute if the fee charged by the VCGCB is included in the 14%, which could be inferred from the omission of the Board fee in other sections. He stated the 1% fee charged by the State Controller's Office and the .57% fee charged by the VCGCB should not be included in the formulation of the PCFD fees. He recommended that the nominal ceiling for PCFD fees be set at 16%, not including the VCGCB and SCO fees, or 18% all-inclusive.

Board member Ramos asked Chief Counsel Wayne Strumpf to explain the rationale for not separating the VCGCB's fees in the formulation of the PCFD fees.

Mr. Strumpf stated that the State Controller's Office and the VCGCB's fees are clearly set forth in the statute but not in the regulations. He stated that there is no need to further clarify the matter as it is commonly understood that these fees are part of the overall administrative costs.

**Amount Raised in Geographic Region (subd. (c)(6))**

Change the word "may" to "shall" in proposed subdivision (c)(6) to read, in part: "If no qualifying organization is applying, the Board shall offer the opportunity to be a PCFD to other qualifying organizations, taking into consideration geographic continuity and their ability to provide service in the territory in question."

The Board voted to authorize the Executive Officer to file the CalVCP regulations with the Office of Administrative Law and adopted the proposed changes to section 633.9 as follows:

- Include definitions that clarify key terms used in the regulation text.
- Increase the minimum amount that can be contributed by a state employee from \$2.00 to \$5.00.
- Decrease the allowable fundraising and administrative costs from 16% to 14% which is necessary in order to bring the overhead costs in line with comparable campaigns such as the CSECC. A written justification seeking Board approval is required by any organization participant in the CSECC if they determine that fundraising and administrative costs will exceed 14%.
- No Board administrative costs may be allocated to organizations with total annual collections of less than \$1,500.

Additional non-substantive changes were made to clean up regulation language to make it clear, concise, consistent, and in plain English.

**Item 7. Consent Agenda (Nos. 1- 337)**

The Board voted to adopt the staff recommendations for item numbers 1-337, as amended, as follows: numbers 61, 62, and 82 were removed pending review of additional information received and numbers 98, 111, and 117 were removed to allow the claimants an opportunity to address the Board.

**Consent Agenda Appearance**

**Item 98, G592143**

Michael Murphy, claimant, appeared. Mark Tweedy appeared on behalf of the Department of Motor Vehicles (DMV).

Mr. Murphy requested payment in the amount of \$2,900.00 for impound storage fees and loss of personal property resulting from his vehicle being impounded by law enforcement because his DMV record incorrectly indicated that his license was suspended.

Mr. Murphy stated that as a result of three previous automobile accidents, he received a notice of action letter from DMV stating that his license would be suspended if he did contact the DMV office. He stated that he called DMV after receiving the notice and was told not to be concerned about the notice and he should expect a return call from a DMV supervisor. Mr. Murphy stated that he relied on that advice and drove his vehicle. He stated while driving his vehicle, he was pulled over by a law enforcement officer who informed him that his vehicle would be towed because his license was

suspended. Mr. Murphy stated that he called the DMV office the next day to inform them that his vehicle was towed because the officer told him that his license was suspended. He stated that the DMV supervisor apologized for the incident and he was given back his license. Mr. Murphy further stated that he was told that he should file a government claim.

Chairperson Caballero asked Mr. Murphy if he received the notice of action letter and asked if he had it in his possession. Mr. Murphy stated that he received it; however, he did not have it with him.

Mr. Tweedy stated that when DMV's system notices that a person has been involved in three accidents within 12-month period, an automatic notice is sent to the individual informing them that they are to contact DMV for a hearing on the matter. He further stated that the notice clearly states that if you do not contact DMV within a specified time, your driving privilege will be suspended pursuant to section 13801 of the Vehicle Code.

Chairperson Caballero asked Mr. Tweedy if he brought a copy of the notice that DMV sends individuals. Mr. Tweedy stated that the notice is electronically generated and he did not have a copy. Chairperson Caballero asked if the notice states that the license would be suspended on a particular date. Mr. Tweedy stated that the notice states that the license would be suspended in 34 days.

Board member Chivaro asked Mr. Tweedy if he knew the date of the notice. Mr. Tweedy stated that the date of the notice was probably June 21, as indicated on his memorandum. He stated that the claimant was scheduled for a reexamination on July 14. He further stated that notice was mailed to the claimant's addresses of record.

Chairperson Caballero asked Mr. Tweedy to explain what DMV's system indicated regarding how the notice was effectuated. Mr. Tweedy stated that the driving record contains an abbreviation S:A/072199. He stated that the letter "A" means that the notice was mailed out and it was not returned unclaimed. Chairperson Caballero asked Mr. Tweedy if he had a notation regarding when he received a telephone call from Mr. Murphy. Mr. Tweedy stated that according to DMV's memo, Mr. Murphy contacted DMV on July 21 to schedule a reexamination and the examination was scheduled on August 6.

Chairperson Caballero asked Mr. Tweedy when DMV received a new address from Mr. Murphy. Mr. Tweedy stated that a copy of the driving record printed on August 5 contained a notation in his own handwriting of a current address in Waterford. Chairperson Caballero asked Mr. Murphy if that notation was an address change. Mr. Tweedy stated that he was not sure if it was updated in the system, but he noted it on the record to ensure that DMV would send correspondence to the correct address. He further stated that drivers are supposed to notify DMV of a change of address but, as a courtesy, he updates the change of address himself.

Board member Chivaro asked Mr. Tweedy to clarify whether the notice was sent on June 21, which indicated that the license would be suspended if the person took no action within 34 days. Mr. Tweedy stated that he must have misread his documentation. He stated that the notice was sent on July 14.

Chairperson Caballero asked Mr. Tweedy to confirm the following sequence of events based on his testimony: the notice was sent on June 21; the license was suspended effective July 14; Mr. Murphy contacted DMV on July 21, a week after the license suspension effective date; and the telephone conference was scheduled for August 6, two weeks later. Mr. Tweedy stated that, according to his memo, the dates were correct.

Board member Chivaro asked Mr. Tweedy to confirm whether the notice was sent on June 21 and not July 14, as he previously stated. Mr. Tweedy stated that his memo indicated that the notice was sent on June 21.

Chairperson Caballero stated that if the Board had a copy of the notice of action letter, it would be much easier to clarify the pertinent dates. Chairperson Caballero asked Mr. Tweedy where DMV sent the notice. Mr. Tweedy stated that the records show that Mr. Murphy's address as of April 10, 2010, was in Modesto.

Mr. Murphy stated that he lived in Modesto when he received the notice. He stated that he called DMV either the same day or the next morning and staff at DMV told him that it would be okay to drive. He stated that DMV staff told him that when the manager returned his call, he could discuss it and it would be resolved.

Board member Ramos stated, for clarification purposes, the notice was sent and there are a certain number of days in which a person must respond to DMV before their license is suspended, which is 34 days. He stated that it appeared as though the license was suspended because Mr. Murphy did not contact DMV. Mr. Tweedy stated that Mr. Murphy's license was suspended effective July 15 for nonappearance.

Chairperson Caballero stated that the notice was sent on June 21 informing Mr. Murphy that if he did not call DMV, his license would be suspended. She stated that when Mr. Murphy called, it was after the 34 days. She stated that the challenge that Mr. Murphy faced was that he did not call before the effective date of the suspension. She stated that Mr. Murphy may have called DMV when he received the notice, however it was too late. She stated that the officer who pulled him over had to rely on the information in the computer, which noted that his license was suspended. Chairperson Caballero further stated that the Board must determine whether they support Mr. Murphy's claim based on the evidence and information before them.

The Board voted to adopt the staff recommendation to reject the claim.

Mr. Murphy asked if his claim could be heard by another Board. Jackie Tinetti, Government Claims Program Manager, stated that Mr. Murphy would receive written notification of the Board's action, which would also include a clear explanation of his next steps.

### **Consent Agenda Appearance** **Item 111, G595131**

Pete Stojadinovic, claimant, appeared. Angela Verbaere appeared on behalf of the Department of General Services.

Mr. Stojadinovic requested payment in the amount of \$808.00 from the Department of General Services to reimburse him for the cost of his 2010 bicycle that was stolen from the front of the Department of Water Resources building, his place of employment.

Mr. Stojadinovic stated that he spoke with building management and the head of security at the Department of Water Resources regarding where he could park his bike. He stated that he was told that there were no bike lockers; however, he could safely park his bike in front of the building because security officers patrol the area and the building had security cameras. Mr. Stojadinovic stated that he relied on their assurances and on September 8, 2010, he parked his locked bike in front of the Department of Water Resources building. Mr. Stojadinovic stated that at approximately 1:40 p.m., he discovered that his bike was stolen. He stated that he reported the theft, but was told that the State was not responsible because he should have secured his bike with a better lock.

Mr. Stojadinovic stated that, according to the camera recording, the bicycle thief, who was later apprehended, used a device to cut the lock to steal the bike. He stated that after the theft occurred, he was informed that bike lock boxes were available at the time that he initially inquired about them. Mr. Stojadinovic further stated that he filed a government claim because he believed that he was misinformed, put at risk, and the security guards lacked proper training.

Ms. Verbaere stated that security guards who work in State buildings are responsible for safeguarding buildings and its occupants not ensuring that bikes are not stolen.

Board member Ramos suggested that Mr. Stojadinovic contact the district attorney's office to make them aware of the incident so that a restitution order could be put in place.

Chairperson Caballero stated that it appeared that the Department of Water Resources was not fully informing new employees of their options. She further stated that the security guards were providing misinformation because the Department of Water Resources had bike lockers at the time of the incident but the security guards were not aware. She stated that their misrepresentation was probably innocent, however it set up an expectation by Mr. Stojadinovic.

Ms. Verbaere stated that she would speak with the building manager at the Department of Water Resources to ensure that communications are clear with regard to the security guards responsibilities.

The Board voted to adopt the staff recommendation to reject the claim.

Chairperson Caballero stated that although the Board made a decision against Mr. Stojadinovic's claim, she would make sure that the Board takes action to ensure that accurate information is given to individuals who bike to work.

### **Consent Agenda Appearance** **Item 117, G592473**

Marcus Burton and Meg Lynch appeared on behalf of Otis Elevator Company. Angela Verbaere appeared on behalf of the Department of General Services.

Otis Elevator Company (Otis Elevator) requested payment from the Department of General Services (DGS) in the amount of \$15,917.14 for outstanding invoices for work performed in 2007 at 1020 N Street and mid 2008 at 722 and 800 Capital Mall Drive. Mr. Burton provided the Board with a binder containing a copy of their government claim, standard state agreement amendment cancellations, maintenance agreement, and invoices and payroll back-up for 1020 N Street, and 722 and 800 Capital Mall Drive.

Ms. Verbaere stated that throughout the term of the five-year contract with Otis Elevator, many disputes occurred. She stated that toward the end of the contract, there were a large number of buildings identified in Sacramento where regular maintenance was scheduled to be performed but had not been performed. She stated that DGS tried to work with Otis Elevator to resolve the issues, but were unsuccessful in doing so; therefore, the State withheld payment because the maintenance items were not addressed pursuant to the contract.

Mr. Burton stated that the maintenance was performed according to the contract and Otis Elevator was unaware of any incomplete punch lists for the buildings at 1020 N Street, or 722 and 800 Capital Mall Drive. He stated that the State's elevator inspectors annually inspected the elevators and provided punch lists, which were promptly taken care of by Otis Elevator. He stated that the elevators maintained their elevator permits and Otis Elevator responded to trouble calls and

provided preventative maintenance, as requested. He stated that DGS has not shown evidence that there were deficiency items. Mr. Burton stated that he was aware of one item in dispute between Otis' legal department and DGS associated with the 744 P Street building. He stated that, in that particular case, Otis Elevator contends that the punch list items that DGS is trying to hold them accountable were not delivered to Otis Elevator until seven days prior to Otis Elevator turning over the elevators to the general contractor who was renovating the building. He stated that in meetings held in early May 2009, Otis Elevator agreed, as a concession, to take care of any items that should have been completed under the maintenance contract. He stated that when Otis Elevator inspected the building, the floors were demolished, the elevators were completely shut down, and there was no way that Otis Elevator could perform the work. He further stated that DGS informed Otis Elevator that the work could only be performed at night; however, Otis Elevator informed DGS that they would not pay their staff overtime because they were not notified of the punch list items until seven days prior to December 10, the date the building was to be turned over to the general contractor.

Board member Ramos stated that the claim involves allegations of poor performance regarding the contract. He stated that the claim also requires looking at evidence, interviewing witnesses, and hours of testimony to support the claim. He further stated that the issues surrounding the claim are too complex for the Board and are better suited in a court of law.

Mr. Burton stated that in the past there have been requests by Otis Elevator to meet with DGS and Ms. Verbaere. He asked the Board if they could make a recommendation to have both parties meet to try to resolve the matter.

Chairperson Caballero stated that she would encourage dialogue among the parties because taking the matter to court could be costly. She further stated that if the Board made a motion to reject the claim, it would simply mean that the claim is beyond the scope of the Board because the Board does not have the ability to subpoena witnesses.

Ms. Lynch stated that Otis Elevator performed maintenance on multiple buildings and it was considered a consolidated invoice for all of the buildings. She stated that during this timeframe, maintenance for all of the other buildings was paid and, from an accounting prospective, it appeared as though these two buildings were overlooked.

The Board voted to adopt the staff recommendation to reject the claim as the issues raised were complex and outside the scope of analysis and interpretation typically undertaken by the Board.

**Item 8. Brower Mechanical, Inc.**  
**Claim Number G592473**

Brower Mechanical, Inc., requested payment in the amount of \$92,000.00 for an unpaid invoice related to an equipment purchase. The claim came before the Board at its April 28, 2011, meeting. At that time Government Claims Program staff and Caltrans recommended that the claim be rejected as complex; however, the Board voted to continue the claim to the May 19, 2011, meeting to allow the involved parties an opportunity to reach an equitable resolution.

Jackie Tinetti, Government Claims Program Manager, reported that the parties reached an agreement whereby Caltrans allowed the claim in the amount of \$92,000 and, in exchange, Brower Mechanical, Inc. would relinquish custody of the chiller unit so that Caltrans could arrange for subsequent installation.

Chairperson Caballero and Board member Ramos stated that they were pleased that the parties were able to reach a mutually agreeable resolution.

The Board voted to allow the claim in the amount of \$92,000.

### **Item 9. Applications for Discharge From Accountability for Collection**

The Board voted to adopt the staff recommendation to allow the 40 requests.

### **Victim Compensation Program**

The Board commenced the Victim Compensation Program portion of the meeting at 11:13 a.m.

### **Designation of Board Decisions as Precedent Decisions (Melissa J. and Christine N.)**

#### **Melissa J.**

Government Code section 11425.60 authorizes an agency to designate its decision as a precedent decision. More specifically, the California Victim Compensation and Government Claims Board's general hearing regulations authorize the Board to designate a decision in whole or in part as a precedent decision if it: (1) addresses a legal or factual issue of general interest; (2) resolves a conflict of law; (3) provides an overview of existing law or policy; (4) clarifies existing law or policy; (5) establishes a new rule of law or policy; or (6) contains a significant legal or policy determination of general application. Once designated as a precedent decision, it can be relied upon as legal authority to interpret and implement the California Victim Compensation Program.

The proposed decision of Melissa J. was adopted by the Board under the Victim Compensation Program at its meeting of March 17, 2011. It addresses legal and factual issues of general interest and would be useful to the Board, its staff, and the public if it were adopted as a precedent decision. For that reason, the Chief Counsel directed staff to return this decision to the Board for adoption as precedent.

The application for compensation was based on the alleged rape and sexual assault committed against Melissa J. by her father, mother, and other persons from 1988 through 2008. Melissa J.'s application was received by the Program on May 23, 2008, and was recommended for denial because the Program staff determined that there was not a preponderance of evidence that Melissa J. was the victim of a qualifying crime. The Program staff also determined that Melissa J. was not eligible for Program compensation because she was on felony probation from December 6, 2006, until March 3, 2009.

An in-person hearing on this application was held on May 6, 2010, in Sacramento, California. Melissa J. appeared at the hearing and testified under oath. The hearing officer determined that Melissa J. had proven by a preponderance of the evidence that she was the victim of a qualifying crime. The hearing officer also determined that any crime-related expenses that were incurred during the time that Melissa J. was on felony probation would not be eligible for reimbursement. On August 19, 2010, the Board adopted the recommendations of the hearing officer.

Melissa J. filed a timely request for reconsideration on October 20, 2010. As part of her filing, she submitted evidence that her felony conviction was reduced to a misdemeanor in 2009. Melissa J. argued that because of the reduction, she should be eligible for benefits during the time she was on felony probation. Although the request for reconsideration did not constitute new and additional evidence not reasonably available to the applicant at the time of the hearing, it was determined that the Board should grant reconsideration on its own motion. The hearing officer determined that Melissa J.'s pecuniary losses were incurred while she was on felony probation. It was also determined that these expenses were not reimbursable by the Program. The fact that her felony conviction was subsequently reduced to a misdemeanor did not wipe the slate clean. The law is clear that the Program can only pay pecuniary loss when the losses were incurred after discharge from probation or parole.

The Board voted to adopt the staff recommendation to designate as precedent its decision in the Matter of the Application of Melissa J, Precedent Decision 11-01.

### **Christine N.**

Government Code section 11425.60 authorizes an agency to designate its decision as a precedent decision. More specifically, the California Victim Compensation and Government Claims Board's general hearing regulations authorize the Board to designate a decision in whole or in part as a precedent decision if it: (1) addresses a legal or factual issue of general interest; (2) resolves a conflict of law; (3) provides an overview of existing law or policy; (4) clarifies existing law or policy; (5) establishes a new rule of law or policy; or (6) contains a significant legal or policy determination of general application. Once designated as a precedent decision, it can be relied upon as legal authority to interpret and implement the California Victim Compensation Program.

The proposed decision of Christine N. was adopted by the Board under the Victim Compensation Program at its meeting of November 12, 2009, and addresses legal and factual issues of general interest and would be useful to the Board, its staff, and the public if it were adopted as a precedent decision. For that reason, the Chief Counsel directed staff to return this decision to the Board at this meeting for adoption as precedent.

The application for compensation was based on injuries suffered by Christine N. and her husband, Regis M., as a result of being struck by a vehicle operated by a person who was under the influence of alcohol. The applications of Christine N. and Regis M. were received by the Program on or about September 27, 1999. Both applications were allowed by the Board on December 17, 1999. Regis M. received \$46,000.00 in medical care reimbursement, thus exhausting his available benefits.

On October 2, 2007, Christine N. requested income loss compensation for the period beginning April 1, 2001. Christine N.'s request was recommended for denial because the Program staff determined that there was not a preponderance of evidence that she was eligible for income loss reimbursement, according to the laws that were in effect at the time of the qualifying crime.

An in-person hearing on this application was held on September 9, 2009, in San Diego, California. Christine N. and Regis M. appeared at the hearing and Christine N. testified under oath. The hearing officer determined that the statutes and regulations that govern the Program did not support Christine N.'s argument that her supplemental application for income loss should be analyzed under the Program's current statutes and regulations.

Thus, it was determined that Christine N. was not eligible for income loss compensation. However, it was determined that Christine N. may be eligible for other forms of compensation up to the statutory maximum compensation of \$46,000.00.

The Board voted to adopt the staff recommendation to designate as precedent its decision in the Matter of the Application of Christine N., Precedent Decision 11-02.

### **Request for Approval to Submit the CalVCP Rulemaking Record to the Office of Administrative Law (Title 2, §§ 649.3, 649.18, 649.20, 649.21, 649.24, and 649.32)**

In March 2011, the California Victim Compensation and Government Claims Board (Board) authorized the California Victim Compensation Program (CalVCP) to proceed with regulatory action to implement the following Program changes adopted by the Board in February 2011:

- Lower the maximum total CalVCP benefit from \$70,000 to \$63,000.
- Set a maximum benefit of \$30,000 per application for the purchase, renovating, and retrofitting of vehicles.

- For VCP purchased, renovated, or retrofitted vehicles where the victim will be operating the vehicle, add a requirement that the applicant submit documentation from a mobility or rehabilitation specialist stating that the victim is mentally and physically capable of operating the vehicle.
- Define the documentation that can be used to evidence income loss or support loss, and eliminate the payment of income and support loss when the victim only had a job offer, but was not yet working, at the time of the crime.
- Verify the reasonableness of the attorney's fees paid by CalVCP, by requiring attorneys to submit fee statements documenting the attorney services actually rendered to the applicant prior to receiving payment from the Board for those services.
- Require attorney representatives to sign the application before the applicant signs it.
- Lower the maximum funeral/burial benefit from \$7,500 to \$5,000, and eliminate from the covered funeral/burial expenses the cost for food, beverages, and renting equipment and supplies such as tables and chairs.

After receiving Board approval to go forward with the proposed regulatory action, CalVCP prepared the proposed regulations and an Initial Statement of Reasons, which were filed with the Office of Administrative Law. Notice of the rulemaking action was published on March 18, 2011.

The Notice was sent out to all interested parties and placed on the VCGCB website. CalVCP held a public hearing on the proposed regulations on May 5, 2011. CalVCP received both written and oral comments on the proposed regulations. CalVCP has carefully considered the oral and written comments received on the proposed regulatory action and prepared a response to those comments that are relevant to the proposed regulatory action. A copy of the Final Statement of Reasons, proposed regulation changes, final regulation text, and the summarized comments and CalVCP response thereto are attached. Based on that consideration, CalVCP is recommending that the Board should proceed with the proposed regulations as currently drafted and authorize the Executive Officer to file the CalVCP regulations with the Office of Administrative Law for its review and approval.

The Board voted to adopt the regulation actions with the exception of the proposed Section 649.21, Verification of Attorney's Fees, which was continued to the June 2011 meeting.

Michael Siegel, attorney, appeared to provide comment regarding the regulation concerning attorney's fees; however, he stated that he would postpone his comments since the matter was continued.

Board member Ramos stated that the Board worked very hard to protect the solvency of the Restitution Fund for victims of crime across the State in order to have funds available in the upcoming years.

### **Closed Session**

Pursuant to Government Code section 11126(c)(3), the Board adjourned into Closed Session with the Board's Executive Officer and Chief Counsel at 11:21 a.m. to deliberate on the proposed decisions, numbers 1 through 142.

### **Open Session**

The Board reconvened into open session at 11:33 a.m.

The Board voted to adopt the proposed decisions for numbers 1-142, as amended, as follows: clerical errors were corrected regarding the claim numbers for numbers 36 and 37; numbers 75 and 112 were referred back to staff; and number 128 was overturned by the Board.

### **Adjournment**

The Board meeting adjourned at 11:34 a.m.